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SERVICE DATE – JULY 3, 2006

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-995X]

New Mexico Gateway Railroad Limited Liability Company—Discontinuance
Exemption—in Dona Ana County, NM

New Mexico Gateway Railroad Limited Liability Company (NMGR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F Exempt Abandonments and Discontinuances of Service to discontinue service over approximately 3.5 miles of rail line at Santa Teresa, in Dona Ana County, NM, as follows: (1) a 4,412-foot spur identified as Track A; (2) a 3,375-foot spur identified as Track B; (3) a 3,884-foot spur identified as Track C; (4) a 4,338-foot spur identified as Track D; and (5) a 2,728-foot runaround track.¹ The line traverses United States Postal Service Zip Code 88008.

NMGR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the

¹ NMGR was granted an exemption to operate the rail line in New Mexico Gateway Railroad Limited Liability Company—Operation Exemption—Santa Teresa Limited Partnership, STB Finance Docket No. 34103 (STB served Oct. 29, 2001).

requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

In this proceeding, NMGR is proposing to discontinue service on a line that constitutes its entire rail system. When issuing discontinuance authority for a railroad line that constitutes the carrier's entire system, the Board does not impose labor protection, except in specifically enumerated circumstances. See Northampton and Bath R. Co.—Abandonment, 354 I.C.C. 784, 785-86 (1978) (Northampton). Because there is no evidence that one or more of the exceptions articulated in Northampton are present, no labor protective conditions will be imposed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 3, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),² must be filed by July 13, 2006.³ Petitions to reopen must be filed by July 24, 2006, with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

² Each OFA must be accompanied by the filing fee which as of April 19, 2006, is set at \$1,300. See Regulations Governing Fees for Service Performed in Connection With Licensing and Related Services-2006 Update, STB Ex Parte No. 542 (Sub-No. 13) (STB served Mar. 20, 2006). See 49 CFR 1002.2(f)(25).

³ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

A copy of any petition filed with the Board should be sent to NMGR's representative: John D. Heffner, 1920 N St., N.W., Suite 800, Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 23, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary